

CIVIL COVER SHEET

JS-44 (Rev 11/04)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Joseph Manni

(b) County of Residence of First Listed Plaintiff Montgomery County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c)

Attorneys (Firm Name, Address, and Telephone Number)

Vicki Piontek, Esq. - 951 Allentown Road, Lansdale, PA 19446
877-737-8617

DEFENDANTS

Asset Acceptance, LLC and Midland Funding, LLC

County of Residence of First Listed Defendant Warren, MI

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Lawrence J. Bartel, Esquire, 2000 Market Street, Suite 2300, Philadelphia, PA 19103

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☐ 4. Diversity (Indicates Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place An "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen of Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits. <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 195 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing / Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities—Employment <input type="checkbox"/> 446 Amer. w/Disabilities—Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 U.S.C. § 227, et seq. and 15 U.S.C. § 1692, et seq.

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 14,751
CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

January 8, 2015

SIGNATURE OF ATTORNEY OF RECORD

Lawrence J. Bartel

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: Joseph Manni c/o Vicki Piontek, Esq. - Davis Consumer Law Firm, 951 Allentown Road, Lansdale PA 19446 1-877-737-8617

Address of Defendant: Asset Acceptance, LLC and Midland Funding, LLC c/o Lawrence J. Bartel, Esquire 2000 Market Street, Suite 2300 Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Montgomery County, Pennsylvania

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☒ No ☐

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury
(Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Lawrence J. Bartel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: January 8, 2015

Lawrence J. Bartel
Attorney-at-Law

94006

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: January 8, 2014

Lawrence J. Bartel
Attorney-at-Law

94006

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

JOSEPH MANNI

o

CIVIL ACTION

:

v.

:

:

ASSET ACCEPTANCE, LLC ET AL.

:

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus-Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security-Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration-Cases require to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos-Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management-Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management--Cases that do not fall into any one of the other tracks. ()

January 8, 2015

Date

Lawrence J. Bartel
Attorney-at-law
Lawrence J. Bartel,
Esquire.

Defendants, Asset
Acceptance, LLC and
Midland Funding, LLC
Attorney for

(215) 575-2780

Telephone

(215) 575-0856

FAX Number

Ljbartel@mdwcg.com

E-Mail Address

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Joseph Manni

V.

MIDLAND FUNDING, LLC et al.

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

☐

The nongovernmental corporate party, _____,
, in the above listed civil action does not have any parent corporation and
publicly held corporation that owns 10% or more of its stock.

☒

The nongovernmental corporate party, MIDLAND FUNDING, LLC
, in the above listed civil action has the following parent corporation(s) and
publicly held corporation(s) that owns 10% or more of its stock:

Encore Capital Group, Inc., a publicly-traded corporation, owns 10% or more of Midland Funding, LLC's stock

1/9/15
Date

Lauren J. Bartel
Signature

Counsel for: MIDLAND FUNDING, LLC

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

(1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or

(2) states that there is no such corporation.

(b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:

(1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and

(2) promptly file a supplemental statement if any required information changes.

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Joseph Manni

V.

MIDLAND FUNDING, LLC et al.

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

☐

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 , in the above listed civil action does not have any parent corporation and
 publicly held corporation that owns 10% or more of its stock.

☒

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 , in the above listed civil action has the following parent corporation(s) and
 publicly held corporation(s) that owns 10% or more of its stock:

Encore Capital Group, Inc., a publicly-traded corporation, owns 10% or more of Midland Funding, LLC's stock

1/9/15
 Date

Laurenna J. Bantel
 Signature

Counsel for: MIDLAND FUNDING, LLC

Federal Rule of Civil Procedure 7.1 Disclosure Statement

(a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:

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APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Joseph Manni

V.

Asset Acceptance, LLC et al.

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

☐

The nongovernmental corporate party, _____,
in the above listed civil action does not have any parent corporation and
publicly held corporation that owns 10% or more of its stock.

☒

The nongovernmental corporate party, Asset Acceptance, LLC
in the above listed civil action has the following parent corporation(s) and
publicly held corporation(s) that owns 10% or more of its stock:

Encore Capital Group, Inc., a publicly-traded corporation, owns 10% or more of Midland Funding, LLC's stock

1/9/15
Date

Lauren J Bartel
Signature

Counsel for: Asset Acceptance, LLC

Federal Rule of Civil Procedure 7.1 Disclosure Statement

- (a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:
- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
 - (2) states that there is no such corporation.
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- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
 - (2) promptly file a supplemental statement if any required information changes.

APPENDIX G

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

Joseph Manni

V.

Asset Acceptance, LLC et al.

Civil Action

No: _____

DISCLOSURE STATEMENT FORM

Please check one box:

☐

The nongovernmental corporate party, _____
 , in the above listed civil action does not have any parent corporation and
 publicly held corporation that owns 10% or more of its stock.

☒

The nongovernmental corporate party, Asset Acceptance, LLC
 , in the above listed civil action has the following parent corporation(s) and
 publicly held corporation(s) that owns 10% or more of its stock:

Encore Capital Group, Inc., a publicly-traded corporation, owns 10% or more of Midland Funding, LLC's stock

1/9/15
 Date

Laurence J. Bartel
 Signature

Counsel for: Asset Acceptance, LLC

Federal Rule of Civil Procedure 7.1 Disclosure Statement

- (a) WHO MUST FILE; CONTENTS. A nongovernmental corporate party must file two copies of a disclosure statement that:
- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
 - (2) states that there is no such corporation.
- (b) TIME TO FILE; SUPPLEMENTAL FILING. A party must:
- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
 - (2) promptly file a supplemental statement if any required information changes.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSEPH MANNI,

Plaintiff,

vs.

**ASSET ACCEPTANCE, LLC,
MIDLAND FUNDING, LLC AND
FULTON, FREIDMAN AND
GULLACE, LLP**

Defendant.

Civil Action No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. § 1441(b) and 28 U.S.C. § 1331, Defendants, Asset Acceptance, LLC (hereinafter "Asset") and Midland Funding, LLC (hereinafter "MF")(collectively "Defendants), by and through its counsel, Marshall Dennehey Warner Coleman & Goggin, P.C., hereby removes the action captioned as Joseph Manni v. Asset Acceptance, LLC, docket no. 30043-2014, as filed in the Court of Common Pleas for Montgomery County, Pennsylvania ("the Action"), to the United States District Court for the Eastern District of Pennsylvania, based upon the following:

1. On or about December 5, 2014 Plaintiff filed the Action in the Court of Common Pleas for Montgomery County, Pennsylvania. A true and correct copy of Plaintiff's Complaint in the Action is attached hereto as Exhibit "A."

2. MF first received notice of the Action on December 9, 2014, when it was served with Plaintiff's Complaint.

3. Based on the foregoing, MF has timely filed this Notice of Removal within thirty days of being served with the Complaint and within thirty days of the date that the Action was first removable. See 28 U.S.C. § 1446(b).

4. The Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by Asset pursuant to the provisions of 28 U.S.C. § 1441(b), in that Plaintiff has alleged that MF violated the Fair Debt Collections Practices Act, 15 U.S.C. § 1692, et seq., thereby asserting claims that arise under federal law.

5. In that the causes of action alleged by the Plaintiff arise from the performance of obligations of the parties within Montgomery County, Pennsylvania, the United States District Court for the Eastern District of Pennsylvania should be assigned the Action.

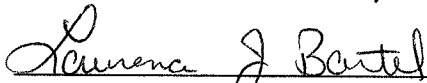
6. Counsel for Asset and MF has spoken with Cynthia Fulton, counsel for co-defendant Fulton, Freidman and Gullace, LLP, who has consented and concurred to the removal of this action to the United States District Court for the Eastern District of Pennsylvania.

7. Pursuant to 28 U.S.C. § 1446(d), MF will file a copy of this Notice of Removal with the Clerk of the United States District Court for the Eastern District of Pennsylvania, will serve Plaintiff with copies of this Notice of Removal and will file the Notice of Removal in the Montgomery County Court of Common Pleas.

WHEREFORE, Defendants, Asset Acceptance, LLC and Midland Funding, LLC notifies this Court that this Action is removed from the Court of Common Pleas for Montgomery County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania pursuant to the provisions of 28 U.S.C. §§1331, and 1446.

Respectfully submitted,

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN, P.C.**

By: 
Lawrence J. Bartel, ESQUIRE
2000 Market Street, Suite 2300
Philadelphia, PA 19103
(215) 575-2780 / (215) 575-0856 (f)
Ljbartel@mdwecg.com
Attorneys for Defendants
Asset Acceptance, LLC and Midland
Funding, LLC

Dated: January 8, 2015

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DENNIS GEIGER,

Plaintiff,

vs.

MIDLAND FUNDING, LLC,

Defendant.

Civil Action No.

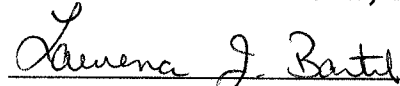
CERTIFICATE OF SERVICE

I, Lawrence J. Bartel, Esquire, do hereby certify that a true and correct copy of Defendants, Asset Acceptance, LLC and Midland Funding, LLC's Notice of Removal was served upon the below-listed counsel of record by regular mail on January 9, 2015:

Vicki Piontek, Esquire
951 Allentown Road
Lansdale, PA 19446
Attorneys for Plaintiff
Joseph Manni

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN, P.C.**

By:



Lawrence J. Bartel, Esquire
Attorneys for Defendants
Asset Acceptance, LLC and Midland
Funding, LLC

Dated: January 9, 2015

EXHIBIT "A"

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

LAWYER REFERENCE SERVICE
MONTGOMERY COUNTY BAR ASSOCIATION
100 West Airy Street (REAR), NORRISTOWN, PA 19401
(610) 279-9660, EXTENSION 201

Montgomery County Legal Aid Services
625 Swede Street, Norristown, PA 19401
610-275-5400

IN THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW

Joseph Manni
35 Belmar Road
Hatboro, PA 19040

Plaintiff

v.

Fulton, Friedman and Gullace, LLP
2345 East Thomas Road, Suite 460
Phoenix, AZ 85016

and

Asset Acceptance, LLC
28405 Van Dyke Ave.
Warren, MI 48093

and

Midland Funding, LLC
8875 Aero Drive Suite 200
San Diego, CA 92123

and

X,Y, Z Corporations

Defendant

2014-30043

Jury Trial Demanded

OFFICE OF THE
PROTODOTARY
MONTGOMERY COUNTY, PA.
2014 DEC -5 A 9:02

COMPLAINT

1. This is a lawsuit for damages brought by an individual consumer for Defendant(s)' alleged violations of the Fair Debt Collection Practices Act, 15 U.S.C. 1692, et seq. (hereinafter "FDCPA").
2. Defendant(s) regularly transact(s) business throughout the Commonwealth of Pennsylvania, and in this jurisdiction, and therefore obtains the benefit(s) of regularly transacting business in this jurisdiction.
3. Plaintiff resides in this jurisdiction.

4. Plaintiff is Joseph Manni an adult individual with a current address of 35 BELMAR RD, HATBORO PA 19040.

5. Defendants are the following individuals and business entities.

- a. Fulton, Friedman and Gullace, LLP, 2345 East Thomas Road, Suite 460, Phoenix, AZ 85016.
- b. Asset Acceptance, LLC, a business entity with a principle place of business of 28405 Van Dyke Avenue, Warren, MI 48093.
- c. Midland Funding, LLC, a business entity with a mailing address of 8875 Aero Drive Suite 200, San Diego, CA 92123 .
- d. X,Y,Z Corporations, business identities whose identities are not know to Plaintiff at this time, but which will become known upon proper discovery. It is believed and averred that such entities played a substantial role in the commission of the acts described in this complaint.

**COUNT ONE: Violation of Fair Debt Collection Practices Act
15 USC 1692 et. seq.**

6. All previous paragraphs of this complaint are incorporated by reference and made a part of this portion of the complaint.
7. At all times mentioned in this Complaint Plaintiff was a consumer debtor as defined by the Fair Debt Collections Practices Act (FDCPA), 15 USC 1692 et. Seq.
8. At all times mentioned in this Complaint , Defendant was a debt collector as defined by the FDCPA, 15 USC 1692 et. seq.
9. At all times mentioned in this Complaint, Defendants, Fulton Friedman and Gullace, LLP, Asset Acceptance, LLC and Midland Funding, Inc. were attempting to collect on an alleged consumer debt against Plaintiff.
10. The alleged consumer debt that Defendants were attempting to collect from Plaintiff was for Plaintiff's personal and household purposes.

11. The alleged consumer debt that Defendants were attempting to collect from Plaintiff was for a judgment in favor of Asset Acceptance, LLC that stemmed from a Dell Financial account for Plaintiff's personal and household purposes. The account which was the subject of the judgment was being serviced by Midland Funding, Inc. Fulton Friedman and Gullace was collecting on behalf of both Midland Funding, Inc. and Asset Acceptance.
12. On or about January 29, 2014, Defendant Asset Acceptance, LLC through its agent employee or representative Fulton, Friedman and Gullace, LLP accessed Plaintiff's consumer report from Experian Information Solutions, Inc. a consumer reporting agency (CRA) as defined by 15 USC 1681a et. seq. See attached exhibits.
13. The Experian report that Defendant Fulton, Friedman and Gullace, LLP accessed pertaining to Plaintiff was a consumer report as defined by 15 USC 1681a and 1681b of the FCRA.
14. At all times mentioned in this Complaint Fulton, Friedman and Gullace, LLP was acting as an agent of Defendant Asset Acceptance, LLC.
15. At all times mentioned in this Complaint Fulton, Friedman and Gullace, LLP was acting as an agent of Defendant Midland Funding, Inc.

16. Defendant Fulton, Friedman and Gullace, LLP had a permissible lawful purpose to obtain Plaintiff's consumer report.
17. However, when Defendant Fulton, Friedman and Gullace, LLP obtained Plaintiff's consumer report, Fulton, Friedman and Gullace, LLP caused what is colloquially referred to as a "hard inquiry" to be made against Plaintiff's consumer report. A "hard Inquiry" occurs when the consumer's report is accessed in such a way as to appear that the consumer initiated the transaction. A "hard inquiry" is viewable by potential lenders, employers, insurers or other persons or entities who have a permissible purpose to access the consumer's report. A "hard inquiry" usually remains on a consumer's consumer report for 24 months from the date of the inquiry. A hard inquiry usually has a negative affect on a consumer's credit score.
18. A "soft inquiry" is where a person or entity accesses the consumer's consumer report in such a way that potential lenders, employers, insurers or other persons or entities having a permissible purpose to access the consumer's consumer report do not see the inquiry. A "soft" inquiry also does not affect the consumer's credit score.
19. The inquiry that occurred by Fulton, Friedman and Gullace, LLP , was viewable on Plaintiff's consumer report to potential lenders, employers, insurers and other persons or entities that have a permissible purpose to obtain Plaintiff's consumer report, and is likely to remain so on Plaintiff's consumer report fro 24 months from the date of such inquiry.

20. It is believed and averred that the inquiry that occurred by Fulton, Friedman and Gullace, LLP had a negative affect on Plaintiff's consumer report.
21. It is believed and averred that at the time that Fulton, Friedman and Gullace, LLP accessed Plaintiff's consumer report on behalf of Asset Acceptance, LLC and Midland Funding, Inc., Friedman and Gullace, LLP knew or should have known that the inquiry would be a "hard inquiry," and not a "soft inquiry."
22. It is believed and averred that at all times mentioned in this Complaint, Defendant Friedman and Gullace, LLP had the discretion and ability to cause Plaintiff's consumer report to be accessed as a "soft inquiry" as opposed to a "hard inquiry."
23. It is believed and averred that Defendant Friedman and Gullace, LLP had the discretion and ability to cause Plaintiff's consumer report to be accessed as a "soft inquiry" as opposed to "hard inquiry."
24. It is believed and averred that Defendant Friedman and Gullace, LLP had a duty to take reasonable measures so that Plaintiff's consumer report was not unnecessarily accessed as a "hard inquiry."
25. Defendant Friedman and Gullace, LLP did not take reasonable steps to access Plaintiff's consumer report as a "soft inquiry" as opposed to a "hard inquiry."

26. Defendant Friedman and Gullace, LLP behaved with reckless or conscious disregard for the manner and consequences in which it accessed Plaintiff's consumer report on behalf of Asset Acceptance, LLC and Midland Funding, Inc.
27. The natural consequences of how Defendant accessed Plaintiff's consumer report was to harass and oppress Plaintiff in violation of 15 USSC 1692d of the FDCPA.
28. The manner in which Friedman and Gullace, LLP accessed Plaintiff's consumer report was unconscionable in violation 15 USC 1692f of the FDCPA.

LIABILITY

29. All previous paragraphs of this complaint are incorporated by reference and made a part of this complaint.

30. At all times mentioned in this Complaint, Friedman and Gullace, LLP was acting as an agent of Defendant Asset Acceptance, LLC and Asset Acceptance is therefore liable to Plaintiff for all of the above described FDCPA violations of Friedman and Gullace, LLP under the theory of agency and respondeat superior. See *Moses v. Law Office of Harrison Ross Byck, P.C. and CACH, LLC*, United States District Court for the Middle District of Pennsylvania, 08 cv 1939, Aug. 4, 2009; also see *Martsoff, v. JBC Legal Group, P.C., and Outsource Recovery Management*, U.S. District Court for the Middle District of Pennsylvania, 04-CV-1346, 2008.

31. At all times mentioned in this Complaint, Friedman and Gullace, LLP was acting as an agent of Defendant Midland Funding, Inc. and Midland Funding, Inc. is therefore liable to Plaintiff for all of the above described FDCPA violations of Friedman and Gullace, LLP under the theory of agency and respondeat superior. See *Moses v. Law Office of Harrison Ross Byck, P.C. and CACH, LLC*, United States District Court for the Middle District of Pennsylvania, 08 cv 1939, Aug. 4, 2009; also see *Martsoff, v. JBC Legal Group, P.C., and Outsource Recovery Management*, U.S. District Court for the Middle District of Pennsylvania, 04-CV-1346, 2008.

32. Any mistake made by Defendant Fulton, Friedman and Gullace, LLP would have included a mistake of law.

33. Any mistake made by Defendant Fulton, Friedman and Gullace, LLP would not have been a reasonable or bona fide mistake.

DAMAGES

34. All previous paragraphs of this complaint are incorporated by.
35. Plaintiff believes and avers that Plaintiff is entitled to at least \$1.00 actual damages for Plaintiff, including but not limited to phone, fax, stationary, postage, etc.
36. Plaintiff believes and avers that Plaintiff is entitled to \$1,000.00 statutory damages pursuant to 15 USC 1692k, or other amount determine by this Honorable Court.
37. It is believed and averred that the above referenced \$1,000.00 statutory damages is per Defendant, for a total of \$3,000.00 statutory damages, or other amount determined by this Honorable Court. The total amount of statutory damages being sought is \$3,000, at a rate of \$1000 per Defendant, and there are 3 Defendants.
38. Plaintiff suffered emotional distress, anger, frustration and confusion as a result of the FDCPA violation(s) described in this Complaint.
39. The amount of such emotional distress shall be determined at trial.
40. For purposes of a default judgment, Plaintiff believes and avers that such distress has a Dollar value of no less than \$10,000.00.

ATTORNEY FEES

41. All previous paragraphs of this complaint are incorporated by reference and made a part of this complaint.

42. Plaintiff is entitled to reasonable attorney fees pursuant to 15 USC 1692 k of the FDCPA.

43. Plaintiff believes and avers that the hourly rate for such attorney fees is \$350.00 per hour or other rate that this Honorable Court may determine.

44. Plaintiff believes and avers that such attorney fees amount to no less than \$1,750.00 at a rate of \$350.00 per hour, enumerated below.

a. Consultation with client, review of file, drafting of letters	1
b. Drafting, editing, review, filing and service of complaint and related documents	2
c. Follow up contact with Defense and client	2

$$5 \times \$350 = \$1,750$$

45. Plaintiff's attorney fees continue to accrue as the case moves forward.

46. The above stated attorney fees are for prosecuting this matter and reasonable follow up.

OTHER RELIEF

47. All previous paragraphs of this complaint are incorporated by reference and made a part of this portion of the complaint.

48. Plaintiff seeks injunctive relief barring further unlawful collection activity.

49. Plaintiff seeks such other relief as this Honorable Court may deem just and proper.

50. Plaintiff requests / demands a jury trial in this matter.

51. Plaintiff demands fees and costs for prosecuting this action.

Wherefore, Plaintiff demands judgment against Defendant(s) in the amount of no less than \$14,751.00 as enumerated below, or such other amount as the Honorable Court deems just and fair.

\$1.00 more or less actual damages.

\$3,000.00 statutory damages pursuant to 15 USC 1692k et. seq.

\$1,750 attorney fees

\$10,000.00 emotional distress

\$14,751

Plaintiff seeks such additional relief as the Court deems just and proper.

Vicki Piontek

Vicki Piontek, Esquire
Supreme Court ID Number 83559
Attorney for Plaintiff
951 Allentown Road
Lansdale, PA 19446
877-737-8617
Fax: 866-408-6735
palaw@justice.com

11/29/14

Date

IN THE COURT OF COMMON PLEAS
OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION-LAW

Joseph Manni
35 Belmar Road
Hatboro, PA 19040

Plaintiff

v.
Fulton, Friedman and Gullace, LLP
2345 East Thomas Road, Suite 460
Phoenix, AZ 85016
and
Asset Acceptance, LLC
28405 Van Dyke Ave.
Warren, MI 48093
and
Midland Funding, LLC
8875 Aero Drive Suite 200
San Diego, CA 92123
and
X,Y, Z Corporations.

2014-30043

Jury Trial Demanded

VERIFICATION

I, Joseph Manni, have read the attached Complaint. The facts stated therein are true and correct
to the best of my knowledge, understanding and belief.


Joseph Manni

11-29-2014
Date

8/27/2014

Experian - Report Summary

Oct 2012: \$17,991 / September 28, 2012 / \$554 / \$557
Sep 2012: \$17,991 / September 28, 2012 / \$554 / \$557
Aug 2012: \$18,435 / August 31, 2012 / \$554 / \$560
Jul 2012: \$19,305 / July 6, 2012 / \$554 / \$557
Jun 2012: \$19,732 / June 6, 2012 / \$554 / \$553

The original amount of this account was \$32,509

Record of Requests for Your Credit History

Inquiries Shared With Others

We make your credit history available to your current and prospective creditors and employers as allowed by law. Experian may list these inquiries for up to two years.

The section below lists all of the companies that have requested your credit history as a result of action you took, such as applying for credit or financing or as a result of a collection. The inquiries in this section are shared with companies that receive your credit history.

CHASE

Address:
PO BOX 15298
WILMINGTON DE 15298
(800) 955-9900

Date of Request:
06/04/2014

Address Identification Number:
0039610820

Comments:
Unspecified. This inquiry is scheduled to continue on record until Jul 2016.

FULTON, FRIEDMAN & GULLA

Address:
PO BOX 2123
WARREN MI 48090
(877) 486-4798

Date of Request:
01/29/2014

Address Identification Number:
0039610820

Comments:
Auto loan. This inquiry is scheduled to continue on record until Feb 2016.

SPRINGLEAF FINANCIAL SER

Exhibit A